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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/728,727

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EXAMINER

HARPER, TRAMAR YONG

ART UNIT

PAPER NUMBER

3714

NOTIFICATION DATE

DELIVERY MODE

02/05/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/728,727	Applicant(s) HERRMANN ET AL.	
	Examiner TRAMAR HARPER	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Examiner acknowledges receipt of amendments/arguments filed 11/03/2008.

The arguments set forth are addressed herein below. Claims 1-36 remain pending, Claim 36 has been newly added, and Claims 1, 6, 7, 9, 11, 12, 25, and 27 are currently amended.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 4-10, 12-14, 18-20, 22-23, 26-31, & 33-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Fisk (WO 00/69535 A1).

Claims 1-2, 6, 9, 12-14, 20, 26, 29, 31: Fisk discloses a bingo gaming system that comprises providing entry into at least one or more bingo game sessions. The system includes a variety of terminal, gaming computers including computer readable memory, etc. for implementing multiple bingo games. A player can purchase entry to a bingo game at various gaming terminals or retail locations. Fisk discloses that entry to a bingo game can be done in a variety of ways such as through the Internet, telephone, or ATM interfaces all linked within a bingo network. Also, preprinted cards can be received through the newspaper inserts, lottery instant tickets, etc. All entries are validated and associated with respective player accounts. Furthermore, players cannot participate in

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games that are currently active, but can pay for entry into games that are inactive (Pg. 25:20-Pg. 30:5). Fisk discloses that players can establish a prepaid account through a credit card or debit card for future charges or entries into bingo games (Primary methods of entry). The player or players can receive periodic bills for charges accrued during the previous period (Pg. 12:25-Pg. 13:5- e.g. implies subscription and automated renewal into bingo games). Fisk discloses that prepaid bingo tickets can be repeatedly used for subsequent/consecutive bingo games, wherein players purchase a prepaid bingo card for use for a limited number of games before the prepaid amount is consumed. Once the prepaid amount is used anymore plays on the card must be purchased again e.g. the card must be renewed (Pg. 30:5-12). Fisk discloses that in the event that a player has a winning bingo card the pattern cell content of the card is compared to the drawn winning cell content/numbers stored in memory and if there is a match the player is awarded a payout. Payouts vary from jackpot awards to "leaster" awards, therefore based on the type of win gaming system determines the appropriate payout. The numbers are randomly drawn from a game computer and compared via matching computers (Pg. 27:16-24, Pg. 32:17-Pg. 33:33, Pg. 36:1-5, Pg. 3:3-24). Fisk discloses that some of the rules for the game may comprise achieving different combinations of winning patterns on a bingo card (Pg. 37:16-25). Fisk discloses an alternative method of entry (**AMOE**) into a bingo game that comprises the use of instant win tickets found with newspapers. The instant win ticket provides the holder a **free** entry into the bingo game using the bingo game printed on the instant win ticket. As

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such one player may purchase entry into a bingo session and another may use a free alternative method for entry into the bingo game session (Page. 14, lines 1-13).

Claims 4, 10, 22, 30, & 33: Fisk discloses a special jackpot award wherein a player that must achieve a row of hits in five called numbers on a card (Pg. 39:17-23). This is clearly interpreted as determining a payout based on fixed odds of winning, considering the likely hood or probability of achieving the outcome is significantly high.

Claims 5, 23, & 34: Fisk discloses that various combination of winning pattern can achieve a “bingo” within the game and that achieving bingo can either end the game or modify the game (Pg. 37:10-34). This includes any bingo, which is well known in the art, and basically consists of achieving bingo in any known fashion until a winning bingo is achieved e.g. a bingo game wherein the odds of winning aren’t fixed.

Claims 7, 18-19, & 27: Fisk discloses the being system controlled by a game computer and/or operator. As such the computer/operator would have control of entering the at least one player by processing the AMOE of the one player (page 35:25-30). The system is capable of processing next game session via AMOE for the respective players.

Claims 8 & 28: It is inherent that there would be an indication to the player of the gaming session to be entered via AMOE e.g. the instant win ticket would have to designate entry into the bingo session (see above).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 15, 16, 21, 32, & 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisk (WO 00/69535 A1).

Claims 3, 21, & 32: Fisk discloses the above, but excludes the wagering game as a game of skill. However, applicant fails to disclose that the wagering game being a game of skill solves any stated problem, provides an advantage, or is for any particular purpose. Moreover, it appears that the gaming system of Fisk, or applicant's invention, would perform the same function of providing a Bingo gaming system with a primary entries means as well as alternative entry means regardless of the type of game being played. Therefore, it would have been prima facie obvious to modify Fisk to obtain the invention as specified in claims 3, 21, & 32 because such a modification would have been considered a mere design consideration which fails to patentably distinguish over the prior art of Fisk.

Claims 15-16: Fisk discloses the above, but excludes the AMOE including a mail entry or internet entry. However, applicant fails to disclose that the AMOE including a mail entry or internet entry solves any stated problem, provides an advantage, or is for any particular purpose. Moreover, it appears that the gaming system of Fisk, or applicant's invention, would perform the same function of providing a Bingo gaming system with a primary entries means as well as alternative entry means regardless of the many possible alternative entry methods. Therefore, it would have been prima facie obvious to modify Fisk to obtain the invention as specified in claims 15-16 because such a

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modification would have been considered a mere design consideration which fails to patentably distinguish over the prior art of Fisk.

Claim 36: Fisk discloses the above, but excludes the wagering game occurring in a non-legal jurisdiction. However, applicant fails to disclose the wagering game occurring in a non-legal jurisdiction solves any stated problem, provides an advantage, or is for any particular purpose. Moreover, it appears that the gaming system of Fisk, or applicant's invention, would perform the same function of providing a Bingo gaming system with a primary entries means as well as alternative entry means regardless of the many possible alternative entry methods of legal precedence. Furthermore the legal ramifications of the inventions has no barring on the novelty or scope of the invention itself and cannot be used to distinguish itself over the prior art. Therefore, it would have been prima facie obvious to modify Fisk to obtain the invention as specified in claim 36 because such a modification would have been considered a mere design consideration which fails to patentably distinguish over the prior art of Fisk.

Claims 11, 17, 24, & 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisk (WO 00/69535 A1) in view of Scott (US 6,102,400).

Claims 11, 17, 24, & 35: Fisk discloses the above with respect to the independent claims, but excludes the AMOE providing an entry of the at least one player in at least two game sessions and a game session associated with the wagering game providing entry by AMOE. Fisk discloses that a computer/operator controls the functionality of the game system including processing game entries. Scott teaches a gaming system comprising a "bad beat" feature that rewards players for receiving somewhat losing

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outcomes. For example, in a "coverall" bingo game the player with the least amount of selections covered is award an entry to three free games (Col. 9:52-Col. 10:10).

Considering that Fisk discloses providing "leaster" awards or prizes it would have been obvious to have modified the gaming system of Fisk to include the AMOE feature (entry for a series of games), as taught by Scott to provide a "leaster" or "bad beat" alternative to the player. Such a modification, add excitement and further potential award opportunities to the player (Scott Col. 2:49-56). Thus a player is more inclined to play if losing outcomes provides potential gains as well as winning outcomes.

Response to Arguments

Applicant's arguments with respect to claims 1-36 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Small (US 5,791,991), Itkis (US 2003/0171986), Pocock (US 5,518,253) all teach bingo games with different types of AMOE.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TRAMAR HARPER whose telephone number is (571)272-6177. The examiner can normally be reached on 7:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Ronald Laneau/
Primary Examiner
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